

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In Re:	:	
EMERY L. KOSTURA,	:	Bankruptcy No. 2112370 PMM
	:	Chapter 7
	:	Hearing Date: 11/30/2021
Debtor	:	Time: 11:00 a.m. 4th Fl. Courtroom
	:	Place: Gateway Building, 201 Penn Street
		Reading, PA

**MOTION OF DEBTOR TO AVOID LIEN OF
LEHIGH VALLEY EDUCATORS CREDIT UNION**

Emery L. Kostura, (the “Debtor”), by and through his counsel, David S. Gellert, Esquire of David S. Gellert, P.C., hereby move this Honorable Court for an Order avoiding judicial lien of Lehigh Valley Educators Credit Union, against property of Debtor, pursuant to 11 U.S.C. §522(f) (the “Motion”), and in support thereof, respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§157 and 1334.
2. Venue is proper pursuant to 28 U.S.C. §§1408 and 1409.
3. The legal predicate for the relief sought herein is 11 U.S.C. §522.

BACKGROUND

4. On August 30, 2021, (the “Petition Date”), the Debtor filed a Voluntary Petition under Chapter 7 of Title 11 of the United States Code (the “Bankruptcy Code”).
5. The Debtor’s Schedules indicate that they own the following real property:
 - A. Real estate located at 1976 Harold Avenue, Allentown, PA 18104 valued at \$150,000.00 (the “Debtors’ Real Estate”).
6. The Debtor’s Real Estate is subject to the following mortgage:
 - A. A first mortgage in favor of Select Portfolio Servicing in the amount of

\$115,086.00.

7. The Debtor claimed an exemption in the Real Estate in the amount of \$14,846.00.

8. Prior to the Petition Date, Lehigh Valley Educators Credit Union entered a judgment on October 21, 2019 in the amount of \$27,190.20 against the Debtor in the Lehigh County Court of Common Pleas to Docket No. 2014-C-3873.

9. The filing of this judgment constitutes a lien on the Debtor's Real Estate.

RELIEF REQUESTED

10. The Debtor seeks to avoid the Judicial Lien on the Debtor's Real Estate pursuant to U.S.C. §522(b) to the extent the Debtor's exemption in the Debtor's Real Estate is impaired.

11. Section 522(f)(1) of the Bankruptcy Code provides, in pertinent part:

(f)(1) Notwithstanding any waiver of exemptions but subject to paragraph (3), the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsections (b) of this section, if such lien is -

(A) a judicial lien, other than a judicial lien that secures a debt of a kind that is specified in section 523(a)(5)...

12. Section 522(f)(2)(A) of the Bankruptcy Code provides as follows:

For the purposes of this subsection, a lien shall be considered to impair an exemption to the extent that the sum of -

(i) the lien;

(ii) all other liens on the property; and

(iii) the amount of the exemption that the debtor could claim if there were no liens on the property;

exceeds the value of the debtor's interest in the property would have in the absence of any liens.

13. Applying the mathematical formula set forth in paragraph 12 hereof, the Debtor's

exemption is impaired by the Judicial Lien of Lehigh Valley Educators Credit Union.

WHEREFORE, the Debtor respectfully requests this Honorable Court enter an Order (I) avoiding the Judicial Lien of Lehigh Valley Educators Credit Union on the Debtor's Real Estate and (ii) granting such other and further relief as this Honorable Court deems just and proper.

Dated: November 3, 2021

Respectfully submitted,

s/David S. Gellert
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